



## Senate

General Assembly

January Session, 2013

**File No. 609**

Senate Bill No. 1056

*Senate, April 24, 2013*

The Committee on Government Administration and Elections reported through SEN. MUSTO of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

**AN ACT STREAMLINING CERTAIN PROCESSES AT THE  
DEPARTMENT OF CONSTRUCTION SERVICES CONCERNING  
CONSTRUCTION MANAGER AT-RISK PROJECT DELIVERY  
CONTRACTS, THE HIRING OF CONSULTANTS AND CONTRACTS  
FOR THE INSTALLATION OF PREFABRICATED BUILDINGS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4b-103 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2013*):

3 (a) In order to carry out any provision of this title for the  
4 construction, renovation or alteration of buildings or facilities, the  
5 Commissioner of Construction Services may enter into a construction  
6 manager at-risk project delivery contract.

7 (b) [The] Except as provided in subsections (c) and (d) of this  
8 section, the Commissioner of Construction Services shall not enter into  
9 a construction manager at-risk project delivery contract that does not  
10 provide for a maximum guaranteed price for the cost of construction

11 that shall be determined not later than the time of the receipt and  
12 approval by the commissioner of the trade contractor bids. Each  
13 construction manager at-risk shall invite bids and give notice of  
14 opportunities to bid on project elements [, by advertising, at least once,  
15 in one or more newspapers having general circulation in the state] on  
16 the State Contracting Portal. Each bid shall be kept sealed until opened  
17 publicly at the time and place as set forth in the notice soliciting such  
18 bid. The construction manager at-risk shall, after consultation with and  
19 approval by the commissioner, award any related contracts for project  
20 elements to the responsible qualified contractor submitting the lowest  
21 bid in compliance with the bid requirements, provided (1) the  
22 construction manager at-risk shall not be eligible to submit a bid for  
23 any such project element, and (2) construction shall not begin prior to  
24 the determination of the maximum guaranteed price, except for the  
25 project elements of site preparation and demolition that have been  
26 previously put out to bid and awarded.

27 (c) Construction may begin prior to the determination of the  
28 maximum guaranteed price for the project elements of site  
29 preparation, demolition, public utility installation and connections,  
30 and building envelope components, including the roof, doors,  
31 windows and exterior walls, provided (1) the project is the renovation  
32 of an existing building or facility, and (2) the project element or  
33 elements involved in such early work have been previously put out to  
34 bid and awarded.

35 (d) If such project involves the renovation of an existing building or  
36 facility that will be performed in multiple phases while such building  
37 or facility remains occupied, the Commissioner of Construction  
38 Services may enter into a construction manager at-risk project delivery  
39 contract that provides for the maximum guaranteed price to be  
40 determined for each phase of the project, prior to beginning each such  
41 phase, provided all requirements of subsection (b) of this section other  
42 than the timing of the determination of the maximum guaranteed price  
43 are complied with.

44 Sec. 2. Subsection (d) of section 4b-51 of the general statutes is  
45 repealed and the following is substituted in lieu thereof (*Effective July*  
46 *1, 2013*):

47 (d) (1) Notwithstanding any provision of the general statutes, the  
48 Commissioner of Construction Services may select consultants to be on  
49 a list established for the purpose of providing any consultant services.  
50 Such list shall be established as provided in sections 4b-56 and 4b-57.  
51 The commissioner may enter into a contract with any consultant on  
52 such list to perform a range of consultant services or to perform a  
53 range of tasks pursuant to a task letter detailing services to be  
54 performed under such contract.

55 (2) Notwithstanding any provision of the general statutes, the  
56 Commissioner of Construction Services may compile a list of  
57 consultants for the limited purpose of providing consultant services for  
58 a particular program involving various projects for the construction of  
59 new buildings or renovations to existing buildings where such  
60 buildings are under the operation and control of a single user agency  
61 and may enter into a contract with any consultant on such list for such  
62 limited purpose. The commissioner may compile such list without  
63 complying with the provisions of sections 4b-56 and 4b-57.

64 (3) As used in this subsection, "consultant" means "consultant" as  
65 defined in section 4b-55, and "consultant services" means "consultant  
66 services" as defined in section 4b-55.

67 Sec. 3. Section 4b-91 of the general statutes is amended by adding  
68 subsection (k) as follows (*Effective July 1, 2013*):

69 (NEW) (k) Notwithstanding the provisions of this chapter regarding  
70 competitive bidding procedures, the Commissioner of Construction  
71 Services may, in consultation with the Commissioner of  
72 Administrative Services and in accordance with subsection (b) of  
73 section 4a-66, purchase property and services concerning the  
74 installation of prefabricated and preengineered buildings from a  
75 person who has a contract to sell such property and services to a

76 department, agency or instrumentality of the United States  
77 government. The Commissioner of Construction Services shall, to the  
78 extent possible, obtain competitive proposals or price quotes from at  
79 least three persons holding such contracts for the property and services  
80 sought by the commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2013</i>	4b-103
Sec. 2	<i>July 1, 2013</i>	4b-51(d)
Sec. 3	<i>July 1, 2013</i>	4b-91

**GAE**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 14 \$</b>	<b>FY 15 \$</b>
Construction Services, Dept.	GF - Precludes Revenue Loss	See Below	See Below
Treasurer, Debt Serv.	GF - Potential Savings	See Below	See Below

### **Municipal Impact:** None

### **Explanation**

Sections 2 and 3 reduce the amount of time needed to begin construction on projects that are partially funded by the federal government, such as those for the Military Department. This precludes a loss of revenue because the funds for such projects must be committed within a specific federal fiscal year.

Section 1 could reduce the length of time needed to complete renovation projects, which could reduce project costs. This would result in General Fund savings for debt service on General Obligation (GO) bonds because the majority of state renovation projects are financed with GO bonds. GO bonds are issued by the Office of the State Treasurer.

### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Department of Construction Services

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**OLR Bill Analysis****SB 1056*****AN ACT STREAMLINING CERTAIN PROCESSES AT THE DEPARTMENT OF CONSTRUCTION SERVICES CONCERNING CONSTRUCTION MANAGER AT-RISK PROJECT DELIVERY CONTRACTS, THE HIRING OF CONSULTANTS AND CONTRACTS FOR THE INSTALLATION OF PREFABRICATED BUILDINGS.*****SUMMARY:**

This bill makes several changes concerning the Department of Construction Services (DCS). It allows, for DCS construction manager at risk (CMR) projects that involve renovations of existing buildings or facilities, (1) certain work to begin before the project's guaranteed maximum price (GMP) is determined and (2) a separate GMP to be determined for each phase of a multi-phase project.

The bill explicitly authorizes DCS to enter into certain types of "on-call" consultant contracts and specifies that it may do so without following the selection process that it typically uses to select such consultants.

Lastly, it allows DCS, in consultation with the Department of Administrative Services (DAS), to purchase property and services concerning the installation of prefabricated and pre-engineered buildings from a person who has a contract to sell such property and services to the federal government. (DAS already has the authority to purchase equipment and supplies from such individuals.) Under the bill, DCS, to the extent possible, must obtain at least three competitive proposals or price quotes when making such purchases.

EFFECTIVE DATE: July 1, 2013

**CMR PROJECTS**

By law, a CMR project cannot proceed until the GMP is determined,

except for site preparation and demolition work for which contracts have previously been bid and awarded (see BACKGROUND). The bill allows, for CMR projects that involve renovations of existing buildings or facilities, public utility installation and connections and building envelope components (e.g., roof, doors, windows, exterior walls) to also begin before the GMP is determined, as long as they have previously been bid and awarded. Additionally, it allows a separate GMP to be determined for each phase of a multi-phase project that involves renovating an existing building while it remains occupied. Under current law, one GMP is determined for the entire project.

The bill eliminates a requirement that the construction manager for a DCS-administered CMR project advertise, in one or more newspapers having general circulation in the state, bidding opportunities for project elements (i.e., trade packages) of a CMR project. Instead, it conforms the law to current practice by requiring that such opportunities be posted on the State Contracting Portal.

### **ON-CALL CONTRACTS**

The bill specifically allows DCS to enter into “on-call” contracts with consultants “for a particular program involving various projects” that include constructing new buildings or renovating existing buildings under the control of a single agency. Under current law, DCS can enter into on-call contracts for a range of consultant services or a range of tasks pursuant to a task letter detailing the services to be performed.

The bill also specifies that, for the types of on-call contracts it specifically authorizes, DCS does not have to follow the selection panel process typically used for on-call contracts. Under this process, DCS must establish selection panels for evaluating consultant services proposals if the value of the services exceeds \$300,000. The panels must submit a list of the most qualified firms to the DCS commissioner for his consideration.

It is thus unclear how DCS would select contractors for the on-call

contracts authorized by the bill. Presumably, the commissioner would negotiate with those firms he determines to be most qualified, at fair and reasonable compensation, to render the particular consultant services under consideration (CGS § 4b-58).

## **BACKGROUND**

### ***CMR Projects***

In a CMR project, the owner (e.g., DCS) hires a firm with construction experience (the construction manager or “CM”), usually during a project’s design phase, to manage the entire construction process. The CM provides pre-construction services such as estimating costs, budgeting, reviewing constructability and suggesting construction alternatives (“value engineering”), and scheduling. Once the design is finalized, the CM seeks competitive bids from subcontractors for each project element (e.g., electrical, mechanical, carpentry, roofing). Once the subcontractors’ bids are received and verified for compliance with project requirements, scope, and specifications, the CM and the project owner negotiate and set a GMP for construction. The CM assumes the risk to complete the project within the GMP.

The GMP includes the CM’s fee, the cost of the work, and contingency funds for the project. The CM is responsible for costs that exceed the GMP, excluding any work not included in the final GMP that the owner authorizes through a change order process.

### ***On-Call Contracts***

An on-call contract defines a broad range of consultant services (e.g., architectural services, professional engineers, accountants, and others) and is generally valid for two to three years. An on-call contract is generally not connected to a specific project; rather, DCS subsequently issues task letters to firms with on-call contracts that identify a specific scope of services to be performed and the fee for those services.

### ***Related Bill***



sSB 889, reported favorably by the Higher Education Committee, eliminates the newspaper advertising requirement concerning trade packages for UConn-administered CMR projects.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable

Yea 14    Nay 0    (04/05/2013)